

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

BUNGIE, INC., a Delaware corporation,

Cause No. 2:21-cv-0811 TSZ

Plaintiff

V.

AIMJUNKIES.COM, a business of unknown classification; PHOENIX DIGITAL GROUP LLC, an Arizona limited liability company; JEFFREY CONWAY, an individual; DAVID SCHAEFER, an individual; JORDAN GREEN, an individual; and JAMES MAY, an individual.

**DECLARATION OF DAVID
SCHAEFER IN OPPOSITION
TO PLAINTIFF'S MOTION
FOR PRELIMINARY
INJUNCTION**

Note on Motion Calendar: June 10, 2022

Defendants.

I, David Schaefer, under penalty of perjury under the laws of the United States, state and declare as follows:

1. I am an Officer and Director of Defendant Phoenix Digital Group LLC as well as one of the individual Defendants in the above captioned matter and have knowledge of the facts stated herein.
 2. Phoenix Digital Group LLC is a Delaware Limited Liability Company that once operated a website known as “Aimjunkies.com.”
 3. Phoenix Digital Group LLC was engaged, in part, in making available to others software programs that enable others to gain certain advantages in playing various computer games. These advantages, which include such things as making visible “hidden” opponents and improving the accuracy of aimed

1 “gunfire” are what Plaintiff Bungie, Inc., refers to in this action as “Cheat
2 Software.”

- 3 4. After receiving a cease and desist letter from Bungie on or about November 4,
5 2020, Phoenix Digital made the decision to cease further distribution of what
6 Bungie calls the “Cheat Software” and de-listed the software from the
7 “Aimjunkies.com” website by December, 2020. Neither I, nor Phoenix Digital
8 or any of the other individual Defendants have made any distribution of these
9 products since December, 2020.
- 10 5. The supposed “Cheat Software” that Bungie complains of in this action is not
11 developed by Phoenix Digital but, instead, is developed by unknown third
12 party developers who make there products available for distribution through
13 the Aimjunkies.com website. When a potential customer places an order with
14 Aimjunkies.com, upon payment of an agreed price, Aimjunkies.com allows the
15 customer to access the third-party developer’s computer server and download
16 the software directly from the third-party developer.
- 17 6. Neither I, nor Phoenix Digital or any of the other named defendants, ever had
18 or has possession of, or even access to, the source code and/or object code of
19 the supposed “Cheat Software.”
- 20 7. Neither I, nor Phoenix Digital or any of the other named defendants ever has
21 possession of or even access to the source code and/or object code of the any
22 game, including but not limited to “Destiny 2,” developed or otherwise owned
23 by Bungie.
- 24 8. Attached as Exhibit A is a true and correct copy of a letter dated June , 2021
25 from our attorney, Martin to counsel for Bungie addressing this lawsuit and
26 explaining, among other things, that Phoenix Digital was in the process of
27 selling the Aimjunkies.com website. Accordingly, Bungie has known since at
28

least as early as June , 2021 that Phoenix Digital was seeking to sell the Aimjunkies.com website.

9. On May 5, 2022 the Aimjunkies.com website was sold to a purchaser in Ukraine. During the course of this sale, no source code or object code of the alleged “Cheat Software” was transferred to the new owners. Nor could they be, given that they were never in the possession or, or accessible to, the Defendants herein.

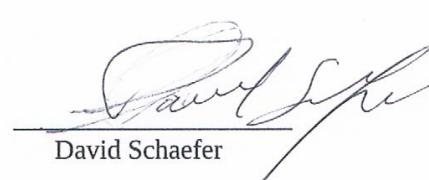
Dated June 6, 2022.

David Schaefer

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9 Dated June 6, 2022.



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David Schaefer